IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.510 OF 2003

Yashwant Kashinath Patil .. Applicant

versus

Shankat Ganpat Patil & ors. .. Respondents

...

Ms.Gauri Godse for the applicant.

CORAM : D.G. KARNIK, J

DATED : 13th April 2007.

P.C.:

1. This Revision Application is directed against the order dated 4th September 2003 passed by the learned Joint Civil Judge, Jr. Division, Alibag rejecting the revision applicant’s application (Exhibit-96).

2. The respondent nos.1 to 3 filed a suit against the revision applicant and respondent nos.4 to 40 in the Court of Civil Judge, Jr.Division for a declaration and injunction. In the said suit, the revision applicant made an application at Exhibit-96 on 20th March 2003 for framing and hearing a preliminary issue as to the jurisdiction of court. Therein he contended that the Court of Civil Judge, Jr. Division, Alibag had no jurisdiction to entertain and try the suit as the suit was beyond the pecuniary jurisdiction in the court. He prayed that the issue regarding the jurisdiction be framed and tried as a preliminary issue under section 9A of the Code of Civil Procedure.

3. Section 9A of the Code of Civil Procedure was introduced to which Code of Civil Procedure by the legislature of Maharashtra and required the Court to frame and decide an issue regarding the jurisdiction as a preliminary issue. In Solapur Social Urban Co-operative Bank Ltd. Vs. Nigam A. Mannan Beskar & ors. reported in 2006(4) Bom.C.R. 217, I have held that section 9A of the Code of Civil Procedure stands repealed by reason of the Code of Civil Procedure (Amendment) Act 1999 Central Act 46

of 1999 and the Code of Civil Procedure (Amendment) Act, 2002 (Central Act 22 of 2002).

4. As the Maharashtra Amendment introducing section 9A of the Code of Civil Procedure itself stood repealed, application under section 9A of the C.P.C itself was not maintainable. In the circumstances, there is no merit in the Revision Application which is accordingly dismissed.

(D.G. KARNIK, J)